## **RESEARCH APPENDIX**

Date Transfer Requested: 11/30/2018

(Per: CMH)

# $\blacksquare$ Appendix Q ... has been added to the $\underline{2017}$ LRB-6071

Appendix A ☞ LRB 17-5979	<b>Appendix O</b> ☞ LRB 17-6028
Appendix B ☞ LRB 17-5982	<b>Appendix P</b> ■ LRB 17-6031
Appendix C ☞ LRB 17-5983	<b>Appendix Q</b> ■ LRB 17-6036
Appendix D ☞ LRB 17-5986	Appendix R ■ LRB 17-6037
Appendix E 🖙 LRB 17-5989	<b>Appendix S</b> ■ LRB 17-6038
Appendix F 🖙 LRB 17-5995	Appendix T 🖙 LRB 17-6046
Appendix G 🖙 LRB 17-5998	Appendix U ☞ LRB 17-6047
Appendix H 🖙 LRB 17-6006	Appendix V ☞ LRB 17-6048
Appendix I ☞ LRB 17-6007	Appendix W 🐷 LRB 17-6049
Appendix J 🖙 LRB 17-6012	Appendix X 🖙 LRB 17-6050
Appendix K 🖙 LRB 17-6021	Appendix Y ☞ LRB 17-6052
Appendix L 🖙 LRB 17-6023	<b>Appendix Z</b> ☞ LRB 17-6059
Appendix M ☞ LRB 17-6024	Appendix AA 🖙 LRB 17-6065
Appendix N 🖙 LRB 17-6027	Appendix BB ☞ LRB 17-6067

## 2017 DRAFTING REQUEST

Bill					
For:	Robin Vos (6	08) 266-9171		Drafter:	ewheeler
By:	Steve			Secondary Drafters:	
Date:	11/19/2018			May Contact:	
Same as l	LRB:				
Submit via email:  Requester's email:  Carbon copy (CC) to:  Elizabeth.Wheeler(michael.duchek@le		@legis.wis			
Pre Topi	c:				
No specia	fic pre topic given				
Topic:			and the second s		
Rule-mal	king authority and fo	ederal compliance pl	ans		
Instructi	ons:				
See attac	hed				
Drafting	History:				
Vers.	<u>Drafted</u>	Reviewed	Submitted	Jacketed	Required
/?	ewheeler 11/21/2018	anienaja 11/21/2018			
/P1			lparisi 11/21/201	8	

<END>

FE Sent For:

#### STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB LRB Research (608–266–0341) Library (608–266–7040) Legal (608–266–3561) 14/18 - Meeting w/ Stove and Alicia in Vosoffice No relemaking authority from fed. compliance plan

#### Wheeler, Elizabeth

From:

Duchek, Michael

Sent:

Friday, November 16, 2018 11:18 AM

To:

Wheeler, Elizabeth FW: model language

Subject: Attachments:

201811161024.pdf

Follow Up Flag: Flag Status: Follow up Flagged

See attached.

From: Fawcett, Steve

Sent: Friday, November 16, 2018 10:50 AM

To: Duchek, Michael < Michael. Duchek@legis.wisconsin.gov>

Subject: model language

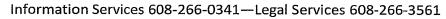
Pg 1-2 is language on standing for associations

Pg 3 is on fed compliance plans

**227.119** Federal Compliance Plans. (1) No agency may submit a plan to a federal agency or a subunit of the federal government for the purpose of complying with a requirement under federal law unless the following conditions are met:

- (a) If the plan would impose a legal requirement, create a regulatory requirement, or contains any element that constitutes a rule as defined in s. 227.01(13), the plan may not be submitted to the federal government until it has been promulgated as a rule, and has complied with all provisions of this chapter that apply to the rulemaking process, including legislative review.
- (b) If the plan does not meet any of the criteria set forth in par. (a), the plan may not be submitted to the federal government until, subject to par. (d), 60 days after it been submitted for review to the Joint Committee for Review of Administrative Rules, and a standing committee in each house of the legislature having policy jurisdiction over the subject matter contained in the plan.
- (c) If the Joint Committee for Review of Administrative Rules or a standing committee that receives a plan under par. (b) finds that the plan would impose a legal requirement, would impose a regulatory requirement, would constitute a rule, or contains elements that exceed the agency's statutory authority, the joint committee or standing committee may object to the plan by majority vote. The Joint Committee for Review of Administrative Rules shall be immediately notified of an objection under this section from a standing committee.
- (d) If there is an objection under par. (c), the agency may not submit the plan to the federal government until it has first been promulgated as a rule, and has complied with all provisions in this chapter that apply to the rulemaking process, including legislative review.
- (e) An agency may modify a plan receiving an objection under par. (c) to remove provisions that would impose a legal requirement, would impose a regulatory requirement, would constitute a rule, or contains elements that exceed the agency's statutory authority and resubmit the revised plan for legislative review under par. (b).

#### WISCONSIN LEGISLATIVE REFERENCE BUREAU

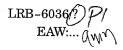




	11/20/2018
Per discussion with Steve:	
-Do not use language Sent on 11/16.	
-instead, make clear that an agency can	ant velia on
-instead, make clear that an agency can compriance plan for mile making au-	thentha
-go with what was discussed with	MEDAN
1114.	111013 071
·	
·	
·	



## State of Misconsin 2017 - 2018 LEGISLATURE





### PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



5

6

7

8

AN ACT ...; relating to: rulemaking authority for federal compliance plans.

Analysis by the Legislative Reference Bureau

This bill provides that a compliance plan does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. The bill provides that no agency may agree to promulgate a rule as a component of a compliance plan unless the agency has explicit statutory authority to promulgate the rule at the time the compliance plan is submitted to the federal government.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 2 Section 1. 227.11 (title) of the statutes is amended to read:
- 227.11 (title) Extent to which chapter confers Agency rule-making
   authority.
  - **Section 2.** 227.11 (3) of the statutes is created to read:
    - ×227.11 (3) A plan that is submitted to the federal government for the purpose of complying with a requirement of federal law does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. No

agency may agree to promulgate a rule as a component of a compliance	plan unless
--	-------------

- 2 the agency has explicit statutory authority to promulgate the rule at the time the
- 3 compliance plan is submitted.

4

(END)



## State of Misconsin 2017 - 2018 LEGISLATURE

LRB-6036/P1 EAW:amn

#### PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT to amend 227.11 (title); and to create 227.11 (3) of the statutes; relating

to: rule-making authority for federal compliance plans.

#### Analysis by the Legislative Reference Bureau

This bill provides that a plan submitted by an agency to the federal government for the purpose of complying with federal law (compliance plan) does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. The bill provides that no agency may agree to promulgate a rule as a component of a compliance plan unless the agency has explicit statutory authority to promulgate the rule at the time the compliance plan is submitted to the federal government.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 Section 1. 227.11 (title) of the statutes is amended to read:
- 4 227.11 (title) Extent to which chapter confers Agency rule-making
- 5 authority.

2

**SECTION 2.** 227.11 (3) of the statutes is created to read:

227.11 (3) A plan that is submitted to the federal government for the purpose
of complying with a requirement of federal law does not confer rule-making
authority and cannot be used by an agency as authority to promulgate rules. No
agency may agree to promulgate a rule as a component of a compliance plan unless
the agency has explicit statutory authority to promulgate the rule at the time the
compliance plan is submitted.

7

1

2

3

. 4

5

6